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OFFICE OF PETITIONS

In re Application of
Grey et al.
Application No. 09/017,735
Filed: February 3, 1998
Attorney Docket No. 018623-00589

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 19, 2002, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper response to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures "Notice" mailed on March 2, 2001. The Notice set a one (1) month shortened statutory period for reply. A reply was filed on May 7, 2001 (certificate of mailing date May 2, 2001) with a one (1) month extension of time. In response a second Notice to Comply was mailed on July 30, 2001 indicating the period for response continued to be based upon the shortened period identified in the Notice mailed on March 2, 2001. An untimely reply to the Notice along with a five (5) month request for extension of time was submitted on September 10, 2001 (certificate of mailing date of September 4, 2001). Accordingly, this application became abandoned on May 3, 2001. A Notice of Abandonment was mailed on January 16, 2002.

This Petition is hereby **Granted**.

A five (5) month extension of time was requested on September 10, 2001. However, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Petitioner's six (6) month statutory period expired on September 2, 2001. Petitioner is ineligible for any extensions of time. Accordingly, account number 03-1952 will be credited with \$945.00 for fees paid to acquire an extension of time.

This application is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

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for Patent Examination Policy